



BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the matter of:

Numbering Resource Optimization

CC Docket No. 99-200

Connecticut Department of Public Utility
Control Petition for Rulemaking to Amend the
Commission's Rule Prohibiting Technology-
Specific or Service-Specific Area Code
Overlays

RM No. 9528

Massachusetts Department of
Telecommunications and Energy Petition for
Waiver to Implement a Technology-Specific
Overlay in the 508, 617, 781, and 978 Area
Codes

NSD File No. L-99-17

California Public Utilities Commission and the
People of the State of California Petition for
Waiver to Implement a Technology-Specific
or Service-Specific Area Code

NSD File No. L-99-36

COMMENTS OF THE MAINE PUBLIC UTILITIES COMMISSION

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COMMENTS OF THE MAINE PUBLIC UTILITIES COMMISSION

The Maine Public Utilities Commission (MPUC) respectfully submits the following comments in response to the Federal Communication Commission's (FCC) Notice of Proposed Rulemaking (NPRM).

I. SUMMARY

The MPUC strongly supports the FCC's efforts to reform the current inefficient numbering administration scheme. The MPUC urges the FCC to take immediate action. Failure to act expeditiously will result in irreparable harm; the activation of new, unnecessary area codes will permanently destroy geographic associations with specific area codes and will continue to subject both residential and business customers to unnecessary costs. In addition, the premature exhaust of the NANP may lead to a predicament similar to the Y2K problem – the industry, businesses, and consumers will be required to spend millions, if not billions, of dollars to create and transition to a new numbering plan, and to endure the inconveniences and system failures inevitably accompanying such a change. These potential societal costs should motivate the FCC, the states, and the industry to take all the necessary steps as soon as possible to avoid such a crisis.

The MPUC's comments will focus on the issues raised in the NPRM that have the greatest impact on the MPUC's ability to address the numbering crisis in Maine. The MPUC has identified five principles which it believes are essential

to the creation of an effective, competitively neutral, administratively feasible numbering scheme.

- (1) The FCC must establish mandatory, enforceable rules and regulations but allow state commissions to tailor the implementation of national conservation measures to meet local circumstances.
 - The voluntary scheme embodied in the Central Office Code Assignment Guidelines (Guidelines) contains neither objective limitations on carriers' abilities to obtain numbering resources nor any penalties for stockpiling numbers.
 - Specific, mandatory requirements and limitations must be established in order for the FCC, NANPA, and the states to be able to enforce the general mandate of increased efficiency and to ensure competitive neutrality.
 - States must be given strong enforcement authority over all code holders (including wireless carriers) and access to all information collected by the FCC and NANPA, including all number utilization data, forecasting information, and audit-related information.
- (2) The FCC should allow states to order the implementation of thousand block pooling as soon as possible.
 - Thousand block pooling provides the best chance for timely, effective relief to the current crisis; no additional cost/benefit analyses regarding pooling are necessary.
- (3) Thousand block pooling should be implemented in LNP-capable switches in all areas of the country, not just the top 100 MSAs.
 - The numbering crisis impacts both urban and rural areas.
 - If the FCC limits pooling to the top 100 MSAs, Maine will not be eligible for pooling, despite the fact that a majority of its switches will be LNP-capable by August 1999 and that it already has collected all of the necessary data and performed a preliminary analysis of pooling's effectiveness.

- (4) Implementation of thousand block pooling must not be conditioned upon the completion of rate center consolidation.
- The initiation of rate center consolidation will raise complex regulatory issues which will take several years to resolve and which may result in significant rate increases for consumers.
 - Given the often limited efficiencies that can be gained from rate center consolidation and the likely rate impact on consumers, states should not be prevented from taking advantage of the immediate benefits of thousand block pooling pending the initiation and completion of rate center consolidation
- (5) Carriers must not be allowed to “pick and choose” number conservation measures to meet a threshold utilization level.
- Carrier choice will result in a continuation of the current crisis and the premature exhaust of the NANP; adoption of this approach is tantamount to doing nothing.
 - Carrier choice will not further the FCC’s goal of a unified, national approach to number conservation but instead will result in an ineffective patchwork of conservation measures.
 - Carrier choice will undermine the effectiveness of each of the conservation measures employed by the carriers. Individual carrier decisions will undermine any positive impacts of other carriers’ individual conservation efforts.
 - “Pick and choose” will be administratively impossible to enforce.

II. COMMENTS

For ease of reference, the MPUC’s comments will follow the outline of the FCC’s NPRM. In addition to its specific comments herein, the MPUC has attached to its comments a copy of an outline developed by the staffs of more than 11 states which contains the general position of those states on the specific

questions raised in the NPRM.¹ The MPUC generally agrees with the positions stated in the Outline and incorporates them into its comments.

C. ADMINISTRATIVE MATTERS

The current voluntary numbering system embodied in the Central Office Code Administration Guidelines (Guidelines) and administered through the Industry Numbering Committee (INC) and the North American Numbering Council (NANC) does not work. Carriers routinely disregard the Guidelines without consequence. Both the INC and the NANC are controlled by the industry and thus neither is willing to take the hard-line positions necessary to reform our current system. Thus, the MPUC believes that the administrative measures discussed in the NPRM should be adopted as mandatory FCC rules generally applicable to all carriers in all regions of the country. States, NANPA, and the FCC should share the responsibility of enforcing these rules. The INC and the NANC should be advisory bodies only; neither should be delegated any enforcement authority.

1. Definitions (¶¶ 39-58)

The MPUC agrees with the FCC that uniform definitions must be established in order to ensure accurate analysis of number utilization data as well as accurate code forecasting. As stated above, the MPUC urges the FCC to adopt these definitions as FCC rules to ensure carrier compliance. The MPUC also generally agrees with the FCC's proposed definitions, but suggests

¹ The MPUC has also attached a copy of a chart version of the NPRM that was used to prepare

the following changes: (1) tighten the definitions where possible by specifying exactly which uses are appropriate or inappropriate; (2) establish specific ranges for aging time periods; and (3) include specific time limits on “pending” times in the definition of assigned number. The MPUC also urges the FCC to narrowly draft the definition of reserved numbers and to include specific limits on the amount of time a number, block, or code may be reserved.

2. Verification of Need For Numbers (§§ 58-68)

The MPUC believes that the verification of the need for numbering resources will be the cornerstone of a successful reorganization of the current numbering administration scheme. The current Guidelines and Months to Exhaust Worksheet do not require any objective, verifiable support for a carrier’s claimed need for numbers. The MPUC encourages the FCC to carefully weigh the industry’s exaggerated claims of numbering shortages against the objective data already collected by states such as Maine. Specifically, in Maine, the overall utilization rate is approximately 33% -- yet the industry insists that it is being as efficient as possible and that a new code is needed. Utilization rates for individual carriers range from less than 1% up to 60%; no carrier even comes close to the FCC’s proposed 80% utilization rate.

Carriers often ignore the current Guidelines and NANPA does not enforce them. Specifically, since October 1998, several carriers who were not fully certified by the MPUC to provide service applied for over 16 codes; at least 9 codes were awarded prior to February 1999 when the MPUC began

reviewing all code requests and intervening when carriers had not yet been certified. Thus, the MPUC supports the FCC's adoption of measures that address the acquisition of both initial codes and growth codes as well as the FCC's proposal that NANPA be prohibited from assigning codes without a showing of need verified by the state commission.

With regard to initial codes, a carrier should be required to show that: (1) it has a valid interconnection agreement (or will have one within 6 months); (2) it has state certification for the requested rate center (either through a statewide, region-wide, or rate center-specific certificate); and (3) it will have facilities in the rate center within 6 months. Proof of the facilities requirement might include a copy of an order for equipment, a contract for unbundled network elements or other documents. In addition, the carrier must provide the state with a description of its business plan, assuming appropriate proprietary protections are in place.

Since March of 1999, the MPUC has been certifying facilities-based carriers on a rate center by rate center basis, rather than statewide. A carrier must provide some evidence that it will have facilities in that rate center within 6 months. This process, similar to that outlined above, has resulted in a savings of at least 75 codes to date (over a year's worth of codes according to NANPA's estimates). Once a carrier receives initial certification from the MPUC, MPUC staff approve additional rate centers after the carrier makes an expedited filing containing the appropriate supporting information for the new rate center. This process was developed in conjunction with the carriers

and, thus far, has not resulted in any complaints regarding delays in obtaining numbering resources.

To expedite the general process outlined above, the FCC should require that carriers provide documentation of their ability to serve with their application and that the application be filed with both NANPA and the state (if requested by the state). NANPA should be obligated to review the application closely and follow-up on any missing or questionable information. If a state has chosen to be included in the process, NANPA can forward a recommendation on whether the code should be awarded and the state can make the final decision.² This process should not slow down number assignment so long as carriers submit all the necessary information in the application and only make applications when they are truly ready to proceed.

With regard to growth codes, the MPUC agrees that the FCC should require carriers to present number utilization data and line growth information proving a need for additional numbers before growth codes can be assigned. Further, rural areas should have the same utilization standard as urban areas and all carriers should be required to use their numbering resources efficiently. Much of the current crisis has been caused by a large number of carriers with a relatively small presence within an NPA using their resources inefficiently. There is a cumulative benefit from NPA-wide efficient utilization; codes saved in rural areas or by one carrier can be used in urban areas or by other carriers and thus the entire NANP benefits.³ Accordingly, the FCC should

² Some states may not have the resources to be involved in the process and will want NANPA to make the final decision.

³ In addition, if the FCC distinguishes between rural and urban areas, the carriers will likely

adopt uniform fill rates as threshold requirements for obtaining additional numbers and apply those standards uniformly to all carriers in all segments of the industry in all areas of the country.

The MPUC urges the FCC not to set the initial fill rate too low and thus supports the use of an 80-85% standard. Carriers will need to be strongly encouraged to improve their number utilization immediately; a low initial threshold will allow the carriers to continue their current inefficient practices. An 80-85% fill rate should provide carriers with sufficient time to request and obtain additional resources.⁴ To the extent that the FCC later determines that a higher threshold is feasible, the MPUC would likely support raising the threshold.

While the MPUC generally agrees with the FCC's proposed calculation of utilization rates, it disagrees with the FCC's proposal to exclude newly acquired codes when calculating a carrier's utilization rate. First, the MPUC believes that rate center-specific utilization rates (rather than NPA-wide rates) should be used as a threshold criterion for obtaining additional resources. Thus, it is essential to include all carrier resources within a particular rate center when calculating the utilization rate for that rate center; otherwise, carriers could acquire additional resources when they have not yet efficiently utilized their current resources within the specific rate center. Such a gaping loophole would negate any positive effects of the mandatory utilization rate. The MPUC sees no need to make an exception for wireless carriers; wireless carriers should be able

develop a method to game the system.

⁴ In addition, the MPUC recommends that the FCC delegate authority to states (NANPA, if requested by a state) to adjust the threshold upward or downward depending upon the rate of growth for the specific rate center, carrier, or promotion in order to ensure some flexibility in the process to address carrier-specific needs.

to forecast their numbering needs accurately and use that information to acquire resources on an as-needed basis and not on a stockpiling basis.

Second, NPA or statewide rates will not provide the necessary specificity of information for the FCC, states, and/or NANPA to make informed decisions regarding carrier applications for growth codes. Indeed, the existence of so-called “mixed” NPAs necessitates the calculation of utilization rates on a rate center basis. It is not necessary for the FCC or the industry to design elaborate schemes for taking into account regional issues; requiring carriers to submit rate center based data will provide all interested parties with the underlying data needed to analyze NPA-wide, statewide, region-wide, and NANP-wide issues.

3. Accuracy of Number Forecasting (§§69-82)

The current Central Office Code Utilization Survey (COCUS) does not accurately predict NPA exhaust. Carriers often do not submit forecasts, and even if they do, they do not suffer any penalty for requesting or obtaining resources in excess of their forecast. The FCC must institute mandatory, detailed reporting and forecasting requirements. However, the MPUC urges the FCC not to adopt the NANC’s Hybrid Model⁵ in its current form because the MPUC strongly disagrees with the proposed level of granularity.

All carriers in all industry segments should report number utilization data quarterly in the categories identified in the NPRM on a rate center

⁵On July 1, 1999, the FCC requested that interested parties include comments on the NANC’s recommendation concerning the replacement of the COCUS in their comments on this NPRM. (NSD File No. L-99-51)

basis as well as specifically identify the rate centers for which they anticipate requesting codes. Rate center specific forecasting will force carriers to pay closer attention to their true numbering needs. The FCC, NANPA, and the states will be able to conduct much better analyses regarding the possible effects of pooling on extending the life of an NPA with granular data rather than NPA-aggregated data. In addition, such frequent and detailed reporting will allow NANPA and the states to detect inefficient practices much more quickly than less detailed reporting.

The FCC should not adopt different reporting requirements for urban and rural areas. Carriers should report data on a thousand block level by rate center in all areas of the country, even if they are not LNP-capable and even if thousand block pooling is not yet available. Prior to the implementation of thousand block pooling, it will be necessary for carriers to preserve uncontaminated thousand blocks. Having data utilization and forecasting data on a thousand block level will enable NANPA and/or state regulators to monitor carrier compliance with preservation protocols.⁶

While the MPUC agrees that NANPA should serve as a single point of collection nation-wide, states must: (1) have the flexibility to require additional information from carriers; and (2) be allowed to review all data collected at the national/federal level. Indeed, states must have access to all data submitted by carriers and not just aggregated data. Carriers have submitted confidential information to state commissions on other sensitive issues; there is

⁶ While the MPUC cannot offer specific cost estimates at this time, the MPUC has had such requirements since October of 1998 and has not received any complaints relating to cost.

no reason to preclude state review of the detailed numbering information as long as states provide the same level of protection provided by NANPA and the FCC.

The MPUC disagrees with the industry's claim that detailed reporting will be overly burdensome and will take up to three years to implement. In Maine, similarly detailed reporting already takes place. The carriers were able to provide the number utilization data within one month of the issuance of a data request.⁷ The FCC should closely scrutinize the industry's claims; a more accurate estimate would likely be less than 6 months. With regard to cost, the initial costs of programming switches and operational support systems to report the data in the correct format constitute the bulk of the costs. Once the reporting systems are established, continued regular reporting should not be burdensome or costly.

6. Audits (¶¶ 83-90)

The MPUC agrees that a comprehensive audit program is necessary to ensure carrier compliance with the new rules and regulations and supports the use of all three types of audits identified by the FCC. The MPUC suggests that the FCC direct NANPA to conduct all three proposed types of audits as part of its numbering administration duties but also delegate to states independent authority to conduct their own audits, especially for-cause audits, at any time.

States should be allowed to participate in any audit as an observer, a consultant, or an active participant and NANPA should be directed to

⁷ Prior to requesting the data, the MPUC put a protective order in place to ensure the

work cooperatively with the states to ensure that their concerns are addressed. States should be kept apprised of all auditing activities and be given access to the information supplied to the auditors as well as the auditors' findings.

7. Enforcement (¶¶ 91-94)

Enforcement authority must rest with entities that are both willing and able to order carrier action; the industry, NANC, and NANPA have not demonstrated an ability to make such decisions. State commissions, however, have clearly indicated a willingness to take such action if the FCC delegates the appropriate authority to them. Indeed, because the states are most familiar with local circumstances and local carrier behavior, states will often be in the best position to enforce any rules that are adopted. Thus, the MPUC recommends joint enforcement authority among the FCC, NANPA, and the states; all three should have a role in enforcement and a cooperative relationship should be established.

Some states, like Maine, may want to be closely involved in enforcement activities. Others may wish to defer to NANPA for the majority of enforcement activities. The FCC's rules can accommodate both approaches by providing specific rules but leaving the actual enforcement process up to NANPA and the states. The FCC should act as an "appeals court" and coordinator when carrier-specific issues cross state lines. Under no circumstances should the industry be allowed to supervise itself or self-police on numbering issues; the industry has shown itself to be incapable of fulfilling either role.

The MPUC urges the FCC to develop an enforcement scheme which tightly enforces the rules and regulations adopted through this NPRM. Enforcement must be uniformly strong, with minimal exceptions, so that carriers will have an incentive to comply. The FCC's goal should be to set up a system which makes it a competitive advantage, not disadvantage, to conserve numbering resources.

Fines, forfeitures, and certification revocation should be available as enforcement mechanisms. States and NANPA should be able to withhold codes for violations of rules and regulations, and withhold future numbers based on current violations when there are no pending requests for that carrier. During the transition from the voluntary, industry-controlled number administration, carriers will need to be motivated to follow the new rules. Strong numbering resource penalties for violations will ensure compliance, while monetary fines may not deter carriers who determine that the cost of the fine is worth the violation. Withholding numbers would also provide carriers with a competitive incentive to conserve resources.

6. Reclamation of Codes (§§ 98-101)

The MPUC agrees that NANPA should be more aggressive in reclaiming codes and recommends that the reclamation process become part of the FCC's rules. Moreover, states should be given specific authority to reclaim codes and the FCC should broaden the circumstances under which both NANPA and states may initiate reclamation proceedings. In addition, the MPUC agrees

that disputes should be sent to the states rather than INC. INC takes too long, has a conflict of interest, and has been ineffective.

The current reclamation process is too lengthy. The new process proposed by the FCC, however, is also too long. The MPUC urges the FCC to require NANPA to begin the process by contacting the carrier 15 days after the deadline. If the carrier fails to provide evidence of extenuating circumstances within 30 days, the code is reclaimed. Using this timeline, the code reclamation process would be completed **within** 60 days rather than beginning 60 days after the deadline. This will provide an administrative incentive for carriers to wait until they actually need resources before requesting them.⁸

D. OTHER NUMBERING OPTIMIZATION SOLUTIONS

1. Rate Center Consolidation (§§ 106-121)

The FCC appears to consider rate center consolidation (RCC) a priority for resolving the current numbering crisis. However, the FCC highlights the advantages of RCC without adequately addressing its disadvantages. Specifically, the FCC downplays the likely profound, direct, and permanent rate impacts on customers due to basic service rate adjustments which may be necessary to allow ILECS to recover the toll revenue lost when many current toll calls are converted to local calls. The FCC proposes further

⁸ The MPUC supports the FCC's proposal to revise the definition of "in service" and recommends that the FCC require that numbers be assigned to "real" customers before a code can be deemed to be in service. The MPUC also agrees that the time for reserving a code should be limited to 3 months and that any extension be firm and limited to 30 days. Carriers have abused the reservation process and caused many unnecessary new NPAs. So long as

cost/benefit analysis before other, more immediately effective conservation measures such as pooling may be implemented, but does not propose the same type of analysis for RCC.

The FCC's approach is strikingly similar to that of the industry – advocacy of RCC without any detailed analysis of the disadvantages or the length of time it will take to accomplish and without any specific proposals to address the loss in toll revenues. If the FCC decides to condition the availability of other conservation measures upon the completion of RCC, other measures may be useless: by the time RCC is completed, the NANP will have prematurely exhausted and the FCC will have an even more horrific crisis on its hands.

The FCC must consider how long it will take to implement any changes in the NANP before it places roadblocks in the states way of implementing measures which will have an immediate positive impact on extending the life of the NANP. Delaying pooling until rate center consolidation can be implemented makes no sense and is contrary to the FCC's proposed purposes of extending the life of the NANP. Pooling is good for all participants. It benefits consumers by extending the life of the area code. It benefits phone companies by easing the burden on them caused by constant NPA relief, jeopardies, and rationing. Finally, it benefits all countries encompassed by the NANP by extending the life of the entire NANP.

Maine has over 220 rate centers, many with limited calling areas due to the high cost of providing service to rural and coastal areas. Our

Industry Task Force has examined RCC and reported that at most 25 codes could be consolidated without impacting local calling areas, and therefore, basic service rates. Maine does not need additional motivation for examining RCC; the MPUC has already shown that it is more than willing to investigate all potential conservation measures. What Maine needs is some understanding on the part of the FCC and the industry that RCC is not a panacea for the numbering crisis and that its implementation will be a very lengthy, complex process. In the meantime, Maine must be free to move forward on other, more effective, less complex measures that will have a much more immediate impact on the numbering crisis.

The FCC has proposed that individual carriers be given the “choice” of what conservation methods the carrier considers most appropriate for its needs.⁹ The net effect of the FCC’s proposals relating to RCC, number pooling, and carrier choice proposals is that states’ ability to implement number pooling and other conservation measures could be held hostage to federal requirements that rate center consolidation be accomplished first and that carriers should be free to pick their conservation measures.

Requiring that states implement RCC before number pooling severely limits a state commission’s discretion to determine whether RCC is appropriate or manageable based on its specific circumstances. At the same time, the FCC proposes broad discretion for carriers, which would be able to “pick and choose” the conservation methods, if any, they might want to pursue to

carriers.⁹ The MPUC strongly objects to this approach and addresses the issue in detail in Section F below.

meet their utilization thresholds. Carriers, thus, would have considerably more discretion than state commissions.

This formulation is backwards. State commissions and the FCC, not industry players, represent the public interest in the management of number resources. The FCC itself acknowledges that numbers are a public resource. It is inconsistent to continue to allow greater private sector control, rather than public control, over how this resource is used and managed.

The MPUC fully supports adoption of FCC rules governing number pooling and conversion of industry guidelines to federal rules which govern carriers and state commissions. But we also believe that state commissions, not carriers, should have flexibility in applying those federal rules to ensure that the public interest in the public's resource is effectively protected. Thus, we urge the FCC to not condition the availability of other conservation measures on the completion of RCC, to reject carrier choice, and to adopt a set of rules governing numbering management and allocation which would allow state commissions, but not carriers, some flexibility to deviate from the rules when the state commission determines that the public interest would not be served by strict compliance with the rule in question.

2. 10 Digit Dialing and D Digit Dialing (§§ 125-129)

The MPUC urges the FCC not to adopt nationwide 10-digit dialing. Dialing patterns are a matter of local jurisdiction, not federal jurisdiction, and states must maintain the flexibility necessary to respond to local needs and preferences. While the MPUC understands the reasoning behind 10 digit dialing,

the MPUC needs the flexibility to balance numbering needs against consumer preferences and reach a decision which works for Maine.

In 1994, the MPUC ordered 11 digit dialing as part of the Interchangeable Numbering Plan Area Code structure adopted by the FCC. After a flurry of communications from discontented customers, on March 7, 1995, the MPUC granted NYNEX's request for reconsideration of that order and instead adopted 7 digit dialing as the default for all intraLATA calling. In its Order, the MPUC noted the overwhelming consumer support for 7 digit dialing and the equally overwhelming dissatisfaction with 11 digit dialing. Thus, the MPUC believes this issue should remain at the state level.

The MPUC also discourages the FCC from moving forward on the issue of D digit dialing at this time. Given the potential problems associated with implementing D digit dialing and the minimal resource saved from its implementation, the MPUC believes that the FCC should defer further exploration of this issue until thousand block pooling has been implemented.

C. THOUSAND BLOCK POOLING (¶¶ 138-214)

The MPUC supports the FCC's adoption of thousand block pooling but strongly disagrees with its proposal to initially limit the implementation of thousand block pooling to the top 100 MSAs. A limited deployment of thousand block pooling will severely hamper conservation efforts in states without large MSAs or with limited geographical areas within the top 100 MSAs. The FCC should immediately allow states to order the implementation of pooling in all rate

centers that will be LNP-capable by January 1, 2000 and then rolling implementation as switches become LNP-capable.

1. Full Geographic Deployment

The FCC must be careful not to unduly limit the applicability of thousand block pooling. All LNP-capable carriers in LNP-capable rate centers should presumptively be required to participate in pooling if required by their state commission. Even if pooling will not save the current code, it should be put into place to conserve the new code. In the few areas where there is not yet a numbering crisis, thousand block pooling may enable those areas to avoid the crisis altogether.

Maine has no large MSAs yet will be LNP-capable by August 1999. Maine should be allowed to participate in thousand block pooling, especially given the fact that the MPUC has already collected extensive number utilization data from all code holders and analyzed the potential effectiveness of pooling in the 207 NPA. The MPUC already knows that there are over 622 uncontaminated blocks in switches that will be LNP compliant by August 30, 1999. If the MPUC is prohibited from implementing thousand block pooling, the 207 area code will likely be lost, a second, totally unnecessary code will be added, and millions of numbers would be left stranded in the old 207 NPA because our population and level of competition will never lead to the use of those numbers.

The FCC also should not establish thresholds for the number of participants in pooling. By waiting to impose thousand block pooling until a

critical mass is reached, the FCC will be encouraging the inefficient use of numbers by carriers until the time arrives and/or discouraging carriers from becoming LNP-capable. While some efficiencies may be gained if carriers are required to conserve uncontaminated thousand blocks, waiting may cause irreparable harm in some areas. For example, in Maine where there are a small number of CLECs, we might not meet the threshold for several years. In the meantime, we will be forced to implement an unnecessary second area code.

2. Detail Studies of the Effectiveness of Pooling

The FCC should not require detailed studies of the effectiveness of pooling. The analyses that have already been conducted by NANPA, NANC, and INC, and the practical experience in Illinois and New York provide ample evidence of the benefits of thousand block pooling, while NANPA's NANP Exhaust Study clearly documents the costs associated with failing to implement thousand block pooling. Adding a detailed study requirement will unnecessarily delay the implementation of thousand block pooling in areas that could benefit the most from it. Detailed studies will lead to lengthy, contested proceedings which will waste the resources of both state commissions and the industry.

3. Wireless Issues

With regard to wireless carrier issues, the MPUC agrees with the FCC that once covered CMRS carriers are LNP-capable they should be ordered to participate in thousand block pooling. Based upon the detailed

number utilization data available to the MPUC, CMRS participation in pooling would significantly improve the effectiveness of thousand block pooling. Specifically, while CMRS carriers claim to be the most efficient users of numbers, the MPUC's data suggests otherwise and confirms NANPA's assertion that CMRS participation would significantly extend the life of the NANP. In Maine, the utilization rate for wireless carriers is 33%. Through our investigation, we have discovered that some wireless carriers use multiple codes in the same rate center to offer different types of services. In one Maine rate center, one carrier has used only 9 numbers out of the 20,000 assigned to it. According to persons familiar with the industry, this is not an unusual practice.

The MPUC strongly disagrees with limiting the extension of wireless pooling to the top 100 MSAs; coverage should include all carriers in all LNP-capable rate centers. Indeed, the MPUC has urged the FCC to accelerate the LNP schedule for CMRS providers so that they can participate in pooling.¹⁰ Wireless carriers should be required to conserve numbers like all other carriers. Thus, at a minimum, CMRS carriers should participate in the process of creating the pooling architecture based upon the assumption that they will eventually participate in pooling.

4. State Flexibility

States should have the option of delaying the implementation of pooling or requiring that pooling be used in conjunction with other FCC-approved conservation measures if local circumstances so require.

¹⁰ See Letter to Chairman Kennard dated December 9, 1998, CC Docket No. 95-116, urging the

Thus, the MPUC supports the FCC's proposal that states be able to opt in or out of thousand block pooling and that if they choose to give up the right to make that decision, another entity, such as NANPA or the FCC can make the decision.

With regard to what type of criteria that should be used by states when considering whether to pool, as stated above, the MPUC strenuously objects to any requirement that necessitates a lengthy analysis of the issue. The FCC, NANC, NANPA, New York, Illinois, and other states have already conducted extensive analyses of the costs and benefits of pooling and generally agree that pooling represents the best chance of appreciably impacting the numbering crisis in the near future. Any criteria established must include sufficient flexibility for states to respond to local circumstances as quickly as possible. As the FCC aptly notes, any cost/benefit analysis will partially be based upon a subjective analysis of the particular circumstances. Thus, the FCC should delegate the final decision regarding pooling to the states.

5. UNP

The MPUC supports further exploration of both individual telephone number pooling (ITN) and unassigned number porting (UNP) because both measures allow for exponentially more efficient use of NANP resources. While the MPUC understands that resource limitations may require a prioritization of conservation measures, UNP is feasible today, and the FCC should give states the authority to determine when and where UNP is appropriate. States should have the authority to order carriers to participate in

state-sponsored UNP programs. In many rural areas, UNP can be a very effective conservation measure and encourages carriers to work cooperatively with one another on numbering issues.

In Maine, we anticipate that the combination of UNP and thousand block pooling will enable Maine to avoid the need for a new area code for many years. We already have a detailed UNP proposal from one of our CLECs and the ILEC has stated that it would accede to the proposal once the details are resolved. The MPUC needs, however, the authority to order all carriers to participate in order to maximize the number savings from UNP.

6. Implementation

As with the other measures proposed by the FCC, the MPUC recommends that the FCC adopt specific rules for thousand block pooling. The current Central Office Code Assignment Guidelines have been ineffective in the competitive market place and thus thousand block pooling guidelines would likely also be ineffective. Mandatory rules provide the best chance of effective implementation.

The MPUC recommends that NANPA be appointed as the thousand block pooling administrator. First, there will be substantial efficiencies gained by having the same entity allocating both whole NXXs and thousand blocks. Second, NANPA already has experience in serving as the pooling administrator in both Illinois and New York. Bringing in a new entity will only serve to slow the process down by requiring the training of new personnel and the coordination of the new entity's duties with NANPA's duties. In order to

ensure that there are no conflicts or disagreements among NANPA, the states, and the industry regarding NANPA's obligations, the MPUC recommends that the FCC (not NANC) enter into a separate contract with NANPA which specifically delineates NANPA's pooling duties and obligations.

7. Sequential Numbering

The FCC should immediately adopt sequential numbering requirements for all carriers in all areas of the country. Every effort should be made to protect uncontaminated blocks from contamination during the transition to thousand block pooling. Eventually pooling will cover all NPAs and rate centers and thus all NPAs and rate centers will eventually benefit from immediate implementation of sequential numbering.¹¹

The MPUC supports initially using all blocks with 10% or less contamination levels for pooling purposes. This initial threshold should apply to all segments of the industry and in all areas of the country. States, however, should be given the flexibility to increase the threshold if the particular circumstances in their state or the particular utilization patterns of a carrier warrant deviation from the norm.

D. PICK AND CHOOSE (¶¶ 216-224)

The MPUC strongly objects to allowing carriers to choose their own methods of conservation as long as they meet a utilization threshold. Adoption of the approach is tantamount to continuing the current scheme and will lead to a

¹¹ States, however, should be delegated authority to allow exceptions to the requirement upon a showing of special circumstances.

worsening of the numbering crisis, the premature exhaust of the NANP, and public outcry over the wasting of public resources. The industry has consistently argued against state authority over numbering issues on the grounds that there should be a uniform national system, despite the fact that states have taken very consistent positions on how they would handle numbering issues. If the FCC adopts the pick and choose approach, there will be no national uniformity, no increased efficiencies, and no delay in the exhaust date of the NANP.

In addition, individual carrier decisions will undermine any positive impacts of other carrier decisions. Since the FCC issued its order in the Pennsylvania case last September,¹² carriers have become increasingly uncooperative on numbering issues and have refused to voluntarily participate in thousand block pooling. If carriers are given the freedom to choose their own conservation measures, this lack of cooperation will only worsen.

Without mandatory participation by all eligible carriers, the effectiveness of pooling will be significantly impaired. Specifically, if carriers with large amounts of spare numbers choose not to participate in pooling, the pooling administrator will be forced to request additional resources which will result in the inefficient allocation of resources. If carriers that need only a few resources in a given rate center choose not to pool, they will be awarded their own code and will squander scarce numbering resources.

A pick and choose scheme will be impossible to administer – the FCC's own requests for comments reflect the impossibility of designing an effective scheme. States will be held hostage to the business plans and

¹²Petition for Declaratory Ruling and Request for Expedited Action on July 15, 1997 Order of the

competitive agendas of individual carriers; states will be powerless to develop a comprehensive, competitively neutral, and effective conservation plan.

Further, it will be next to impossible to enforce a pick and choose scheme unless the FCC is willing to put carriers out of business for not meeting their utilization rates. Financial penalties will not be effective unless they are drastic – otherwise, carriers will do a cost/benefit analysis and decide that it is worth violating the rules to have a stockpile of numbering resources.

Finally, a pick and choose approach will unnecessarily complicate any cost recovery issues. The industry and the FCC will waste valuable time and resources trying to work out a solution to a problem which should not have been created in the first place.

E. PRICING OPTIONS (¶¶228-240)

While the MPUC commends the FCC for its long-range thinking on whether a market should be developed for numbering resources, the MPUC encourages the FCC to defer further exploration of this issue until it has resolved the issues relating to the implementation of thousand block pooling and number utilization data reporting requirements.

F. AREA CODE RELIEF (¶¶ 247-261)

The MPUC applauds the FCC's willingness to consider modifying or lifting its restrictions on the implementation of service-specific and technology-specific overlays. Over the past two years, four states have filed requests with

the FCC for authority to implement service/technology specific overlays. Each of these states has contended that consumers generally support the idea of service/technology specific overlays, especially if it means avoiding the implementation of a new area code which will directly affect their home and business phones.

Earlier this year, the FCC granted a petition by the Cellular Telecommunications Industry Association (CTIA) to defer implementation of LNP by wireless carriers until 2002. LNP, as the FCC itself notes, is necessary for carriers to participate in number pooling. Thus, the FCC's CTIA decision allows wireless carriers to continue to draw numbers in blocks of 10,000, while wireline LNP-capable carriers participating in number pooling will only be able to draw numbers to blocks of 1,000.

Despite the clear benefit of the delay of LNP implementation, the wireless carriers continue to insist that a separate area code for wireless services would be discriminatory. As the California Public Utilities Commission (CPUC) noted in its June 28th Reply Brief, "[t]he wireless carriers have set themselves apart by their business decision not to implement LNP, yet they insist on being treated the same as all other carriers". (CPUC's Reply, NSD File No. L-99-36 6/28/99, p. 4.) In short, wireless carriers appear to want to have their cake and eat it too; they want unfettered access to numbering resources and no obligation to participate in effective conservation measures.

While the ban on service-specific or technology-specific area codes was intended to prevent alleged discrimination while the wireless industry was in

its more formative stages, the industry is now well-developed and no longer in need of such protection. Indeed, if the FCC fails to make a separate accommodation for non-LNP-capable carriers, there will be discrimination in favor of the wireless industry and against wireline providers.

Finally, implementation of a technology-specific overlay dedicated to wireless providers would actually afford a degree of consumer protection in the event that the FCC decides to institute “calling party pays.” By placing cellular or PCS numbers in a discrete area code, a caller to a number in that area code would know at the outset that the number being called is to a wireless device, and thus the customer would be on notice that he or she could be assessed per-minute charges for the call.

In summary, a service/technology specific overlay would provide a significant amount of relief in many states with numbering crises. Thus, the MPUC urges the FCC to grant the petitions of New York, California, Connecticut, and Massachusetts and to allow all states to make the same decision.

IV. CONCLUSION

The MPUC urges the FCC to take immediate action to implement the policy changes recommended in our Comments. Failure to act to will result in the premature exhaust of the NANP and the imposition of needless costs and inconveniences upon business and residential consumers alike. Maine and other states must be given the authority to implement number conservation measures which will immediately impact the current crisis – detailed data reporting and forecasting requirements, verification requirements for new code requests,

utilization thresholds, thousand block pooling, unassigned number pooling, and service-specific overlays. A numbering administration system which provides every incentive for the industry to cooperate with the FCC, NANPA, and state commissions to conserve our public numbering resources will benefit both the public and the industry.

Respectfully submitted,

MAINE PUBLIC UTILITIES COMMISSION

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